

LBNL – PROCUREMENT STANDARD PRACTICES

Section: 9 Subcontractor Qualifications

Subject: 9.2 Debarment, Suspension, and Ineligibility

PURPOSE: This standard practice (SP) describes the requirements for determining if proposed subcontractors are debarred, suspended, or proposed for debarment, and for awarding subcontracts to such subcontractors.

POLICY: The Laboratory will not enter into any subcontract in excess of \$25,000 with a subcontractor that is debarred, suspended, or proposed for debarment unless there is a compelling reason to do so.

SCOPE: This SP applies to all subcontracts exceeding \$25,000.

DEFINITIONS:

Debarment Debarment is action taken by a federal agency to exclude a contractor from contracting or subcontracting with the government for a reasonable, specified period; a contractor so excluded is “debarred.”

Ineligible Ineligible means excluded from Government contracting (and subcontracting, if appropriate) pursuant to statutory, Executive Order, or regulatory authority and its implementing and supplementing regulations (i.e., Davis-Bacon Act and its related statutes and implementing regulations, the Service Contract Act, the Equal Employment Opportunity Acts and Executive Orders, the Walsh-Healey Public Contracts Act, the Buy American Act, or the Environmental Protection Acts and Executive Orders).

Suspension Suspension is action taken by the government to disqualify a contractor temporarily from government contracting and subcontracting; a contractor so excluded is “suspended.”

PROCEDURES:

Debarment Review Before awarding the subcontract, the procurement specialist shall conduct a search on the Excluded Parties List System (EPLS) at <http://www.epls.gov> to determine if the subcontractor is included on the EPLS. Subcontractors included on the EPLS shall be treated as debarred, suspended, or proposed for debarment.

Subcontracts The procurement specialist shall include in the subcontract a provision whereby the subcontractor certifies that as of the time of award of the subcontract, the subcontractor, or its principals, is not debarred, suspended, or proposed for debarment by the Federal Government.

Proposed Awards to Debarred or Suspended Subcontractors Proposed awards to subcontractors who are debarred, suspended, or proposed for debarment shall be based on a compelling reason and shall be approved in writing by the procurement supervisor and the Procurement Manager. If the

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award is approved, DOE's approval must be obtained before entering into a subcontract as described below under *DOE Approval*.

REVIEW/ APPROVAL:

DOE Approval

The procurement specialist must notify DOE, and obtain their written approval, before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment. The written request for approval must include:

- The name of the subcontractor;
- The Laboratory's knowledge of the reasons for the subcontractor's being on the EPLS;
- The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the EPLS; and
- The systems and procedures the Laboratory has established to ensure that it is fully protecting the Government's interests when dealing with the subcontractor in view of the specific basis for the subcontractor's debarment, suspension, or proposed debarment.

Debarment or Suspension After Award of a Subcontract

Occasionally, a subcontractor may be debarred, suspended, or proposed for debarment after award of a subcontract. Upon learning of such action, the procurement specialist shall consult with the procurement supervisor on the potential impact of terminating the subcontract for convenience.

RESPONSIBILITIES:

Procurement Specialist

The procurement specialist shall:

- Conduct a search of the EPLS before award of a subcontract;
- Include a provision in the subcontract whereby the subcontractor certifies that the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment;
- Obtain written preaward approval from the procurement supervisor and the Procurement Manager, and then from DOE, to award a subcontract to a subcontractor included on the EPLS; *and*
- Consult with the procurement supervisor upon learning that a subcontractor has been debarred, suspended, or proposed for debarment after award of a subcontract.

REFERENCE:

Prime Contract Clause I.10 - Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment